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No. 169

In the Supreme Court of the United States

OCTOBER TERM, 1960

POLAROID CORPORATION, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

MEMORANDUM FOR THE RESPONDENT

J. LEE RANKIN,
Solicitor General,
HOWARD A. HEFFRON,
Acting Assistant Attorney General,
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MEMORANDUM FOR THE RESPONDENT

The issue in this case is identical with that in *G. D. Searle & Co.* v. *Jarecki*, 274 F. 2d 129 (C.A. 7), in which the Government has filed a petition for certiorari (No. 151, this Term). That issue is whether income received from the sale of certain patented products constitutes "abnormal income" within the meaning of Section 456(a)(2) of the Internal Revenue Code of 1939, so as to qualify for Korean War excess profits tax relief. The court below, expressly disagreeing with the Seventh Circuit, reached a directly opposite conclusion. (Pet. App. A, 2a–12a.)[1]

[1] The court below in this case also decided—adversely to the Government—a minor issue as to the proper treatment of certain interest (Pet. App. A, 12a–14a). The Government is not seeking review by this Court as to that issue.

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For the reasons set forth in its petition in *Seanle*, the Government does not oppose certiorari in this case.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

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JULY 1960.

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